



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2012-0755; FRL-9384-9]

Dinotefuran; Pesticide Tolerances for Emergency Exemptions; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: EPA issued a final rule in the **Federal Register** of November 9, 2012, concerning establishing time-limited tolerances for dinotefuran on pome fruit, group 11 and stone fruit, group 12, in connection with authorizations for emergency exemption uses under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This document amends the tolerance listing for dinotefuran by restoring the time-limited tolerances that were inadvertently deleted by a subsequent (unrelated) final rule published in the **Federal Register** of November 28, 2012.

DATES: This final rule amendment is effective [*insert date of publication in the Federal Register*].

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2012-0755, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor

instructions and additional information about the docket available at

<http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Andrea Conrath, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460-0001; telephone number: (703) 308-9356; email address: *conrath.andrea@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

The Agency included in the final rule a list of those who may be potentially affected by this action.

II. What Does this Technical Amendment Do?

On November 9, 2012, EPA issued a final rule establishing time-limited tolerances for residues of dinotefuran in or on pome fruit, group 11 and stone fruit, group 12 in 40 CFR 180.603(b). A subsequent rule was published on November 28, 2012, establishing permanent tolerances for dinotefuran on rice and other commodities, under 40 CFR 180.603(a). Inadvertently, with the establishment of the permanent tolerances on November 28, 2012, the time-limited tolerances for pome fruit, group 11 and stone fruit, group 12, that had previously been established in the November 9, 2012 final rule were deleted. This final rule will restore §180.603(b), as well as the pesticide time-limited tolerances for pome fruit, group 11 and stone fruit, group 12, to support uses authorized under section 18 emergency exemptions.

III. Why is this Amendment Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical amendment final without prior proposal and opportunity for comment, in order to move quickly on the emergency exemption to address an urgent non-routine situation and ensure that the resulting food is safe and lawful, as provided for in FFDCA section 408(l)(6). EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

EPA included a discussion of the statutory and Executive Order reviews in the November 9, 2012 final rule.

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Agricultural commodities, Pesticides and pests.

Dated: April 19, 2013

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR Chapter I is amended as follows:

PART 180--[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

2. In § 180.603, revise paragraph (b) to read as follows:

§ 180.603 Dinotefuran; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of dinotefuran, (*RS*)-1-methyl-2-nitro-3-((tetrahydro-3-furanyl)methyl)guanidine, including its metabolites and degradates, in or on the commodities in the table below resulting from use of the pesticide pursuant to FIFRA section 18 emergency exemptions. Compliance with the tolerance levels specified below is to be determined by measuring only the sum of dinotefuran and its metabolites DN, 1-methyl-3-(tetrahydro-3-furylmethyl)guanidine, and UF, 1-methyl-3-(tetrahydro-3-furylmethyl)urea, calculated as the stoichiometric equivalent of dinotefuran, in or on the commodities listed in the table below. The tolerances expire and are revoked on the dates specified in the table.

Commodity	Parts per million	Expiration/revocation date
Fruit, pome, group 11	1.0	12/31/15
Fruit, stone, group 12	1.0	12/31/15

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